

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

UNITED STATES OF AMERICA,

vs.

LAZARO FRANCISCO
DELGADO-GONZALEZ, JR. ,

Defendant.

No. 2:15-CR-00072

TRANSCRIPT OF SENTENCING HEARING
NOVEMBER 20, 2017
BEFORE THE HONORABLE PHILIP P. SIMON
UNITED STATES DISTRICT COURT

A P P E A R A N C E S:

FOR THE GOVERNMENT:

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PROBATION:

Andrew Koelndorfer - USPO

ALSO PRESENT:

Lazarro Francisco
Delgado-Gonzalez, Jr.

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1 (The following proceedings were had in open court,
2 commencing at 10:05 a.m.)

3 THE DEPUTY CLERK: All rise.

4 THE COURT: You could be seated.

5 All right. Good morning, everyone. We're on the record
6 in 2:15-CR-72. The case is United States vs. Lazaro Francisco
7 Delgado-Gonzalez, Junior. We're here for the sentencing of the
8 defendant. He's here with his lawyer, Mr. Brown; and
9 Mr. Lanter is here on behalf of the government.

10 The defendant appeared before me back on May 23rd of this
11 year, and he pled guilty to Count One of the Third Superseding
12 Indictment, charging him with racketeering or conspiracy to
13 participate in a racketeering activity relating to his
14 involvement with the Latin Kings. I adjudged him guilty at
15 that time based on his plea, and I also ordered the preparation
16 of a presentence report at that time.

17 In the meantime, I've received a copy of the presentence
18 report, and there's been three separate addendums to the
19 presentence report. One was filed on -- Well, it's
20 Document 991. Then there was an addendum early this month.
21 It's 1144, the second addendum. Then there was a third
22 addendum on November 8th. That's Document No. 1148.

23 So I've reviewed all of that material, and I have also
24 reviewed the sentencing memoranda that I received from both the
25 defendant and government in this case.

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1 So that's the sum total of the material that I have
2 reviewed for purposes of these proceedings. Is that what I
3 have before me? Mr. Brown?

4 **MR. BROWN:** Yes, Your Honor.

5 **THE COURT:** Mr. Lanter?

6 **MR. LANTER:** Yes, Your Honor.

7 **THE COURT:** All right. Let me ask you this.
8 Mr. Brown, did both you and your client receive a copy of that
9 presentence report and the addenda that I've just referenced
10 sometime before the hearing today?

11 **MR. BROWN:** We have, Judge.

12 **THE COURT:** All right. Mr. Delgado, did you -- Is
13 that what I should call you, Mr. Delgado?

14 **THE DEFENDANT:** Yes, Your Honor.

15 **THE COURT:** All right. Mr. Delgado, did you have an
16 opportunity to thoroughly review the contents of the
17 presentence report with Mr. Brown before the hearing today?

18 **THE DEFENDANT:** Yes, Your Honor.

19 **THE COURT:** All right. Mr. Lanter, I assume you also
20 received the report; right?

21 **MR. LANTER:** Yes, Your Honor.

22 **THE COURT:** So the presentence report and those
23 various addenda are now placed in the record under seal. It's
24 directed that, if an appeal is taken, counsel on appeal shall
25 be permitted access to the sealed report. It's further

1 directed that counsel on appeal are not permitted access to the
2 recommendation section of that report.

3 So the addendum -- or the various addenda indicate or set
4 forth the objections that have been raised by counsel that I
5 need to resolve at the hearing today.

6 You know, this record is a little bit confused, frankly.
7 It's a little different than normally the way it would be
8 presented to me. But as far as I understand, the defendant has
9 withdrawn their objection to drug quantity; is that correct,
10 Mr. Brown?

11 **MR. BROWN:** That's correct, Your Honor.

12 **THE COURT:** You've withdrawn your objection relating
13 to whether or not the defendant possessed a firearm during one
14 of the incidents in the case; is that correct?

15 **MR. BROWN:** That's correct, Your Honor.

16 **THE COURT:** There's still a number of things that are
17 in dispute that, frankly, very much could change the way I
18 would view this case, candidly.

19 As I understand it, you are disputing that he stored a
20 large quantity of marijuana that was later stolen and then he
21 retrieved through a robbery; is that right?

22 **MR. BROWN:** That's correct, Your Honor.

23 **THE COURT:** You're disputing whether or not he
24 possessed a gun during the various times that he was posting up
25 in the neighborhood?

1 **MR. BROWN:** That's part of the objection that we are
2 withdrawing, that -- that he possessed a firearm.

3 **THE COURT:** Okay. I'm happy to accept your
4 concession. But just so I'm clear, I'm looking at Addendum
5 No. 3, Document 1148. Number 2 says denies the following
6 allegations, that he possessed a gun while posting up. Do you
7 see what I'm referencing?

8 **MR. BROWN:** Yes, Your Honor.

9 **THE COURT:** That has now been withdrawn?

10 **MR. BROWN:** That's correct.

11 **THE COURT:** So I can cross that off my list.

12 You're also disputing whether he continued to be involved
13 in the Latin Kings after 2010; is that right?

14 **MR. BROWN:** That's correct, Judge.

15 **THE COURT:** You're contending whether or not he shot
16 at a Two Six gang member at some point in time?

17 **MR. BROWN:** That's correct.

18 **THE COURT:** And whether or not he was ever involved
19 in any homicides; correct?

20 **MR. BROWN:** That's correct.

21 **THE COURT:** There's some allegation in the
22 presentence report that he provided a gun to a Latin King, who,
23 in turn, used that gun to shoot another gang member. You're
24 denying that, as well; is that correct?

25 **MR. BROWN:** That's correct.

1 **THE COURT:** All right. And maybe this is all sort of
2 the part of the same sort of large denial here; but on
3 November 6th, the government -- or November 3rd, the government
4 provided a whole bunch of additional information that it
5 evidently must have recently received from some flippers and
6 wanted to augment the factual basis that was set out in the
7 presentence report, and so there's a whole slew of allegations
8 that are contained in the second addendum, Document No. 1144.

9 As I understand it, those are all being disputed; is that
10 right?

11 **MR. BROWN:** That's correct, Your Honor.

12 **THE COURT:** Okay. So have I fairly described what is
13 actually in dispute now?

14 **MR. BROWN:** I believe so, Judge.

15 **THE COURT:** Mr. Lanter?

16 **MR. LANTER:** Yes, Your Honor.

17 **THE COURT:** Okay. So this is going to entail a great
18 deal of fact-finding. So is the government -- I mean, I'm not
19 going to take your word for it, of course, so tell me what you
20 have in mind.

21 **MR. LANTER:** Here's where the government is at. The
22 government is not intending on presenting any evidence today.

23 The government's position is that these acts that he's
24 disputing do not affect the guideline range. With our latest
25 submissions, the probation office included a two-point

1 enhancement for maintaining a drug residence or storing drugs
2 in a drug residence, and the acceptance was also taken away on
3 the basis of that.

4 The government has made the determination that we are not
5 going to present evidence on that two-point enhancement for a
6 number of reasons, one of which is other similarly situated
7 defendants in this case, including ones that are responsible
8 for much more drugs than Mr. Delgado, did not receive that
9 enhancement. So for a number of reasons, we're not going to be
10 presenting evidence on that maintaining a drug house
11 enhancement.

12 Given that, the government at this point believes
13 Mr. Delgado is accepting responsibility in this case.

14 For a long time in this case, there were disputes about
15 the drug quantity that was foreseeable and the firearms
16 enhancement. Had those been contested, the government would
17 have been presenting evidence to support those; but at this
18 point, given that the defendant has conceded that he was
19 responsible or foreseeable for three-and-a-half to five
20 kilograms of cocaine and that he did possess a firearm in the
21 course of the conspiracy, we took a close look at the things
22 that he was contesting, the things he was not contesting, and
23 determined today we would be just proceeding with the
24 sentencing on the basis of the things that he has admitted to
25 participating in doing throughout the course of the conspiracy

1 given that the guideline range is not affected by those other
2 things.

3 THE COURT: So what is it that he's admitting to? I
4 mean, he's admitting he's been involved in some drug
5 distribution on behalf of the Latin Kings --

6 MR. LANTER: Yes.

7 THE COURT: -- somewhere in the range you've all
8 agreed to. I understand that.

9 MR. LANTER: Yes.

10 THE COURT: As far as it relates to gang activity, he
11 has admitted to that he posted up in the neighborhood, that
12 he --

13 MR. LANTER: Correct.

14 THE COURT: -- possessed a gun when he did that?

15 MR. LANTER: Correct. He's --

16 THE COURT: But -- Well, go ahead. I'm sorry.

17 MR. LANTER: He's also admitted to selling pounds of
18 marijuana on behalf of the Latin Kings. He has admitted to
19 shooting at an Imperial Gangster in 2010. He has also admitted
20 to being present during at least one other shooting. He is
21 denying that he did shoot at a Two Six gang member, which we
22 just discussed as part of Document 1148.

23 In the course of these cases, as the Court knows --

24 THE COURT: Can I interrupt for a second.

25 MR. LANTER: Yes.

1 THE COURT: Just so I'm clear. Because I thought he
2 was disputing whether he shot at an IG, paragraph 17, because
3 that's a big deal.

4 Here's the problem I have.

5 MR. LANTER: Correct.

6 THE COURT: Here's the problem I have.

7 MR. LANTER: Yes.

8 THE COURT: If everything that's in this presentence
9 report and this addendum that you've presented to me is
10 accurate, boy, I have one view of this case.

11 If it's that he hung out in the neighborhood, he posted up
12 on occasion, went to a few meetings, and maybe stored some
13 drugs on a couple of occasions, I have an entirely different
14 view of this case.

15 I mean, can you appreciate that from my point of view?

16 MR. LANTER: I can. I can. I can.

17 THE COURT: Even if I accept-- and I do --that the
18 guideline range in this case should be 27 and the range would
19 be 87 to whatever it is, I wouldn't be inclined to give a
20 sentence of 87 months if you can't prove all of these other
21 things.

22 MR. LANTER: Okay.

23 THE COURT: But, wow, if you can prove all those
24 other things, then I would be inclined to give a sentence
25 that's well within that range.

1 **MR. LANTER:** I mean, based on the reading of this,
2 it's our understanding that he is contesting shooting at a
3 Two Six gang member. That's a different allegation than the
4 shooting at the IG gang member.

5 **THE COURT:** Mr. Brown, can you help me with that?

6 **MR. BROWN:** Your Honor, the incident with regards to
7 the Imperial Gangster gang member, if you recall, at the change
8 of plea hearing, there was testimony about an incident where
9 Mr. Delgado got shot in the neck.

10 **THE COURT:** Yeah. Sure.

11 **MR. BROWN:** And he returned fire to those individuals
12 that were firing at him. That is the shooting I believe that
13 is being referred to as shooting at an Imperial Gangster
14 member, so that he has admitted and will admit that he did, in
15 fact, fire at an IG.

16 **THE COURT:** What was he doing at the time? Was he
17 sort of posting up in the neighborhood and it's one of the
18 deals where the IGs roll by and they opened on him and he opens
19 up on them, that kind of thing?

20 (Inaudible discussion off the record between Defendant and
21 Mr. Brown.)

22 **MR. BROWN:** He was in the neighborhood walking to his
23 Godmother's house, who was in the neighborhood.

24 **THE COURT:** I'm prepared to proceed with the
25 sentencing today.

1 MR. LANTER: Yes.

2 THE COURT: But I want to let you understand the
3 concern --

4 MR. LANTER: Absolutely.

5 THE COURT: I have to operate on evidence and facts,
6 and so --

7 MR. LANTER: Correct. Yes.

8 THE COURT: Okay. So, as I understand it, then, the
9 government is not going to be providing any evidence today on
10 any of those disputed factual matters that I've just delineated
11 on the record. Is that right, Mr. Lanter?

12 MR. LANTER: Correct.

13 THE COURT: Okay. So there are these other two
14 objections that Mr. Lanter referenced. One is whether or not
15 the defendant should receive a two-level enhancement for
16 maintaining a residence for the primary purpose of storing
17 drugs. I'm going to sustain the objection in the absence of
18 any evidence to support that and given that this would be a
19 one-off for this defendant and it hasn't been applied to any
20 other defendant in this case. Frankly, I'm not sure that the
21 enhancement would apply in any event. I have no idea if it was
22 stored there for ten minutes or ten months. You know, I need
23 evidence in order to support an enhancement. So I'm going to
24 sustain the objection.

25 I'm also going to sustain the objection to the defendant

1 not receiving a reduction for acceptance of responsibility.

2 So based on all of those findings, that would leave the
3 total offense level in this case of 30 -- I'm sorry, of 27.

4 The criminal history category is III. And I understand that
5 the defendant has withdrawn their objection to the criminal
6 history category. Is that right, Mr. Brown?

7 **MR. BROWN:** That is correct, Your Honor.

8 **THE COURT:** With all that being said then, the
9 guideline range would be as follows: Based on an offense level
10 of 27 and a criminal history category of III, the range would
11 be 87 to 108 months; the fine range would be 25,000 to 250,000;
12 restitution is inapplicable; supervised release range would be
13 one to three years; and there's a special assessment of \$100.

14 Based on all of the rulings and the stipulations that
15 we've just talked about, is that all accurate?

16 Mr. Brown?

17 **MR. BROWN:** It is, Judge.

18 **THE COURT:** Mr. Lanter?

19 **MR. LANTER:** Yes, Your Honor.

20 **THE COURT:** All right. I do now accept the plea
21 agreement entered into between the United States and the
22 defendant filed with this Court back in May of this year. The
23 Judgment and sentence will be consistent with it because I am
24 satisfied that the agreement adequately reflects the
25 seriousness of the actual offense behavior and that accepting

1 the plea agreement will not undermine the statutory purposes of
2 sentencing.

3 Okay. So with all that being said, I'll turn it over to
4 you, Mr. Brown. Is there anything you wish to say on the
5 defendant's behalf before I sentence him?

6 **MR. BROWN:** We do, Judge. On behalf of Mr. Delgado,
7 we actually do have two witnesses we would like to present --

8 **THE COURT:** Fair enough.

9 **MR. BROWN:** -- for more so the character evidence.

10 **THE COURT:** Sure.

11 **MR. BROWN:** At this time, we'll call Jade Portny.

12 **THE COURT:** Ma'am, if you would please raise your
13 right hand to be sworn in.

14 (The oath was administered.)

15 **THE WITNESS:** Yes.

16 **THE COURT:** All right. You may be seated. Make sure
17 you speak right in the microphone there so I can hear you.

18 **JADE PORTNY, DEFENDANT'S WITNESS, SWORN**

19 **DIRECT EXAMINATION**

20 **BY MR. BROWN:**

21 Q. Good morning, Ms. Portny. Can you please state and spell
22 your name for the record.

23 A. Jade Portny; J-A-D-E, P-O-R-T-N-Y.

24 Q. Ms. Portny, what do you currently do for a living?

25 A. Sorry. I'm a VIP host at Horseshoe, Hammond.

1 THE COURT: I didn't understand a word you just said.

2 A. I'm sorry. I'm a VIP host at Horseshoe, Hammond. I have
3 a second job. I'm a hostess at a little Greek restaurant in
4 Munster.

5 Q. Are you currently going to school?

6 A. I am, for my master's, at Purdue.

7 Q. Do you have any bachelor's? What do you have?

8 A. I have two. I have one in finance and the other in
9 marketing, from Purdue.

10 Q. Do you know Mr. Delgado-Gonzalez?

11 A. I do.

12 Q. And how do you know Mr. Delgado?

13 A. We were in a relationship for six years.

14 Q. When did you start dating Mr. Delgado?

15 A. August 8th of 2010.

16 Q. Are you still in a relationship with him?

17 A. No. We broke up November 3rd, 2016.

18 Q. Can you -- when you were dating --

19 When you began dating Mr. Delgado, soon thereafter, did
20 there come a time that he began taking classes?

21 A. Yeah. He went to Ivy Tech for about two years in 2011 and
22 2012. He wanted to go for electrical engineering.

23 Q. And during your relationship with him going through
24 school, did you guys talk about the future, talk about goals?

25 A. Of course.

1 Q. Plans?

2 A. Yeah, of course. I met him, you know, when I was 18,
3 right out of high school. So it's like, you know, you're the
4 person you know after being with him for six years. Of course,
5 things like that are going to come up naturally, you know,
6 discuss family, discuss life, marriage, things like that, you
7 know.

8 Q. And did he have goals?

9 A. Oh, yeah. He's very -- Actually, he's very goal-oriented,
10 you know. Yeah. You know, he wanted things, like he wanted
11 his own place, wanted family, wanted to do always better for
12 himself. He was one of those people, like, you know, he was
13 here, you know. How different ways can he grow to get here,
14 here, you know, to the next level. He was very goal-oriented,
15 I would say, for sure.

16 Q. Did there come a time in your relationship when you and
17 Mr. Delgado began staying with each other?

18 A. We did. He moved in with my parents and I in 2013. We
19 stayed with each other at my parent's house. We had an
20 apartment. We moved in 2014 to Highland, Indiana.

21 Q. Okay. So you guys were never married?

22 A. No, never married.

23 Q. But he stayed at your house with your parents; is that
24 correct?

25 A. Yes.

1 Q. Can you tell the Court a little about your father and what
2 you classify your father -- How would you classify your father?

3 A. Definitely old fashioned for sure. You know, he's one of
4 those typical dads, you know. He believed in hard work. He
5 didn't like slackers for sure, you know. Not necessarily you
6 had to prove himself to him, but, you know, like I said, very,
7 very old fashioned. Didn't put up with any BS or anything like
8 that.

9 Q. Do you have any siblings?

10 A. I do. I have four.

11 Q. Are you the baby of the family?

12 A. I am, yes.

13 Q. Was he even more so protective over his baby?

14 A. My dad?

15 Q. Yeah.

16 A. My dad is protective over everybody. Not just over me.
17 Over everybody.

18 Q. What kind of -- Did he have, I would say, a typical
19 father's perception that no man is going to be good enough for
20 his daughter?

21 A. Oh, for sure. For sure.

22 Q. But yet he allowed Mr. Delgado to move into his home with
23 his daughter?

24 A. Yeah.

25 Q. And do you believe that, based on your experience with

1 your father and also Mr. Delgado, that he proved himself to
2 your father?

3 A. Yeah. For sure. My parents liked him. They trust him.
4 Obviously, they trusted him enough to stay in the house, you
5 know. Nothing -- They never got into a fight. Never argued.
6 He was really, really respectful. Very respectful to my
7 parents, actually. To this day, my parents still -- they still
8 ask and wonder about him, honestly.

9 Q. During your relationship with him, in addition to going to
10 school, did Mr. Delgado maintain employment?

11 A. He did; yes.

12 Q. And you indicated that at some point -- I believe you said
13 2014, you guys got your own place in Highland?

14 A. Yes.

15 Q. So you were kind of living with your parents to save up
16 money and enough to get your own place?

17 A. Yes.

18 Q. And you guys were successful at that?

19 A. Yes.

20 Q. Did he end up stopping going to school?

21 A. He did.

22 Q. Do you know why?

23 A. Because he had a job that paid really good money.

24 Q. So he decided to maintain his employment and get that
25 money to help support the family?

1 A. Yes. For sure.

2 Q. And he thought that, at least at that point in time in his
3 life, that was a better option for him?

4 A. Yes.

5 Q. Is there anything else you would like to tell the Court in
6 regards to Mr. Delgado?

7 A. Really, he's -- He's not a bad person. He's not. He's
8 very caring; very, very caring. I'm sorry. Sorry. But he's
9 definitely one of those people that, you know, you could take
10 away the materialistic things, you know, but -- you could take
11 away anything, the materialistic things, but he has a good
12 heart; and when he really cares about something, it definitely
13 shows. He's very, very caring.

14 Q. And you've been to every court hearing Mr. Delgado had?

15 A. Oh, yeah, yes.

16 Q. And you were present during the detention hearing to where
17 the government was providing some evidence by way of proffer
18 that -- or allegations that Mr. Delgado was involved in?

19 A. Yes.

20 Q. And that was prior to you meeting him; is that correct?

21 A. Yes. Like I said, we didn't get together until August of
22 2010. I met him in June, right after I graduated high school.

23 Q. The guy that was portrayed in that detention hearing --

24 A. He's nothing like -- nothing like what they're put -- the
25 guy sitting right there is nothing like what they're portraying

1 him as, nothing whatsoever.

2 MR. BROWN: No further questions, Your Honor. Thank
3 you.

4 THE COURT: Mr. Lanter, do you have any questions of
5 this young lady?

6 MR. LANTER: No, Your Honor.

7 THE COURT: All right, ma'am. Thank you. You may
8 step down.

9 Mr. Brown, you may call your next witness.

10 MR. BROWN: Your Honor, we'll call Jorge Cabrales.

11 THE COURT: Good morning, sir. If you would please
12 raise your right hand and take an oath.

13 (The oath was administered.)

14 THE WITNESS: Yes.

15 THE COURT: You may be seated.

16 THE WITNESS: Thank you.

17 THE COURT: Mr. Brown.

18 MR. BROWN: Thank you, Your Honor.

19 JORGE CABRALES, DEFENDANT'S WITNESS, SWORN

20 DIRECT EXAMINATION

21 BY MR. BROWN:

22 Q. Sir, can you please state and spell your name for the
23 record.

24 A. Jorge Cabrales; J-O-R-G-E, C-A-B-R-A-L-E-S.

25 Q. Mr. Cabrales, where are you currently employed?

1 A. At Indiana Sugars in Gary, Indiana.

2 Q. And is that a union -- Is that through one of the unions?

3 A. Yes, it is. It's Teamsters Union.

4 Q. Do you have a family?

5 A. Yes, I do.

6 Q. Tell us a little about your family.

7 A. I have a family; fiance, three children. A daughter, very
8 intelligent daughter who I'm proud of, into music and her
9 schooling. I have two sons that I coach in basketball and in
10 baseball. Very into that. We have a very loving and
11 supporting family. Blessed to have that.

12 Q. How old are your children?

13 A. My daughter just actually turned 12. My son just turned
14 eight yesterday, and I have a five-year-old turning six.

15 Q. Do you know Mr. Delgado?

16 A. Yes, I do.

17 Q. And how long have you known Mr. Delgado?

18 A. I've known Lazaro since about eight, nine years old.
19 Since seeing him running around on the streets since he was a
20 young kid.

21 Q. Did you guys kind of grow up in the same neighborhood?

22 A. Yes, we did.

23 Q. Through growing up, how would you classify -- as what you
24 know, how would you classify Mr. Delgado's upbringing,
25 childhood?

1 A. I don't want to talk too bad about it, but he's had a
2 difficult upbringing that I know of in his household with his
3 family members. So just, you know, good friends we were, we
4 just tried to be a good support system for him, knowing where
5 he came from and, you know, the neighborhood that we are; and
6 like I said, the family is -- His mother and stepfather, just a
7 couple incidents that we know, you know, weren't too healthy of
8 a household. So just as good friends and family, we try to be
9 there to support him.

10 Q. You maintained relationship with Mr. Delgado throughout
11 your guys childhood together?

12 A. Yes.

13 Q. And there was a time he moved over to Illinois; are you
14 familiar with that?

15 A. Yeah. I remember him moving out of the neighborhood for a
16 little while.

17 Q. And you still maintained relationship with him?

18 A. Yes. We always kept contact.

19 Q. There was a time he came back to the area when he was 15,
20 16 years old; do you recall that?

21 A. Mm-hmm, mm-hmm.

22 Q. That's a yes?

23 A. Yes. I'm sorry. Yes.

24 Q. So you've really seen Mr. Delgado kind of go through the
25 stages of being a juvenile; correct?

1 A. Absolutely.

2 Q. Come into young adulthood and then even -- even so now
3 prior to his arrest in this case, you've kind of -- you've seen
4 how he's -- would change --

5 A. Yes.

6 Q. -- throughout that time?

7 A. Yes, absolutely.

8 Q. Tell the Court a little bit about that.

9 A. Okay. From just being young and in the streets, we had a
10 couple friends, you know, who went the wrong path. And just
11 knowing a little bit about that and me having a good support
12 system, we always -- we tried to support Lazaro and just, you
13 know, I seen him, just like my teams, you know, at the
14 beginning of the season. I see what we're starting with, and
15 it's, you know, scraps and this and this, and mid-season what
16 they are and finally at the end. And just like he's saying, I
17 seen Lazaro develop from a boy to a man and with Jade and
18 becoming, you know, a great person.

19 And it's just sad, difficult to deal with this, knowing he
20 was on the right path, you know. Right now out of all times
21 making -- trying to make his life better now as opposed to 15,
22 16, when he was misled, he was just becoming a man that we were
23 all proud of that we all were able to see the change in him and
24 supported that and, you know, encouraged that.

25 And, you know, it's just sad to see at the end of all

1 this, you know, maybe this -- out to get sweat from under him
2 instead of keep the ball rolling, giving him a setback.

3 Q. Can you kind of describe to the Court a specific instance
4 or example of how you've seen Mr. Delgado change.

5 A. Absolutely. From us being around in the same
6 neighborhood, you know, you notice someone who's around in the
7 neighborhood doing what they're not supposed to and who are
8 being productive people.

9 And I've seen the change of Lazaro not even being in the
10 neighborhood no more to the times that he would -- he would be
11 visiting family. He would be visiting a friend of mine's
12 mother, or he would be at my house with my family, playing
13 basketball with my kids, just trying to stay positive.

14 And it's something that we all witnessed, we all seen, and
15 that we were all proud of him for. It was just a complete 360
16 turnaround from him having his girlfriend to them changing
17 together, him getting an apartment, him holding a job. Just
18 things that are positive, really positive in someone's life who
19 was deterred the wrong way from a young age.

20 And it's hard to pull that back, and we were actually
21 witnessing him holding his own and doing great, and just, it
22 was a great experience. We were all proud of him to see that.
23 And then just to hear last time we were in court all these
24 allegations from 2009, '10, discrediting his name. I
25 understand from back then, but now the Lazaro we have seen

1 lately is not that person who was doing all that when he was a
2 teenager and misled and just misguided by wrong people. He was
3 actually thinking and being a man for himself, and we got to
4 witness that.

5 MR. BROWN: No further questions.

6 THE COURT: Mr. Lanter, do you have any questions of
7 this witness?

8 MR. LANTER: No, Your Honor.

9 THE COURT: All right, sir. Thank you. You may step
10 down.

11 THE WITNESS: Thank you.

12 THE COURT: Do you have any other witnesses,
13 Mr. Brown?

14 MR. BROWN: No other witnesses, Judge. Just a few
15 exhibits. May I approach, Judge?

16 THE COURT: Sure, of course.

17 MR. BROWN: Your Honor, tendering to the Court
18 Defendant's Exhibit A, which is a copy of the State of Indiana
19 license to carry a handgun permit that was tendered to Lazaro
20 Delgado-Gonzalez and Defendant's Exhibit B, which is a resume
21 of Mr. Delgado.

22 THE COURT: Any objection to A or B?

23 MR. LANTER: No, Your Honor.

24 THE COURT: They're both admitted.

25 MR. BROWN: Thank you, Judge.

1 Judge, no other evidence. Just argument.

2 THE COURT: All right. So, Mr. Brown, I'll hear from
3 you as to anything you wish to say as to the sentence I should
4 impose.

5 MR. BROWN: Thank you, Your Honor.

6 Judge, on behalf of Mr. Delgado, not to rehash the facts
7 and the argument that were contained in the defendant's
8 sentencing memorandum, but I believe the testimony that we
9 heard today kind of going back through Mr. Delgado's childhood
10 is instructive for this Court in making the determination of
11 what sentencing is appropriate in this case.

12 There's no doubt about it. Being a Latin King, being
13 involved in what the Latin Kings are is a very serious offense,
14 and Mr. Delgado knows that.

15 From day one, Mr. Delgado has accepted his responsibility
16 in this matter and accepted the responsibility for what his
17 involvement was in this matter.

18 The day of his arrest, he tells agents when asked, "Why am
19 I being arrested," they bring up his involvement in the Latin
20 Kings, "Yes, I was involved in the Latin Kings."

21 He accepted responsibility, took the plea agreement with
22 the foreseeability of the weight and also the gun enhancement,
23 again, accepting his responsibility for what he was
24 involved in.

25 Your Honor, he was involved in the Latin Kings. Began

1 getting involved in the Latin Kings when he was merely 16, 17
2 years old.

3 As I indicated in the defendant's sentencing memorandum,
4 the onslaught of scientific evidence that is now being used
5 throughout our court system, even the United States Supreme
6 Court, of the differences between juveniles and adults and how
7 juveniles should be treated differently in the criminal justice
8 system because of the fact their brains, their decision-making,
9 is not developed enough or developed at a stage that an adult
10 would be.

11 As Mr. Delgado sits here as an adult in front of you, Your
12 Honor, the time that he was involved in this organization was
13 when he was a juvenile. Not all the way. He became an adult
14 while being involved in the organization. But it started when
15 he was a juvenile. He started when he was 16, 17 years old.

16 He had a troubled upbringing where he did not have the
17 sense of family within the home. He was abandoned by his mom.
18 Had to go over to live with some family friends because of the
19 physical and emotional abuse that he was suffering in his own
20 home. He then went and, unfortunately, suffered that over in
21 Illinois with the family friends he was supposed to be staying
22 with.

23 He finally got to a point where he couldn't take it
24 anymore and ran away. He got in trouble with the law. He went
25 to the Campagna academy. No offense to the Campagna academy,

1 it's there for a reason, but it's a breeding house for exactly
2 what we have here.

3 What did Mr. Delgado do. He found future Kings, seeking,
4 searching for that sense of family, for that sense of
5 belongingness, that sense of safety.

6 He made the wrong decision. He was very impressionable,
7 being that young age, 16, 17 years old; and he made the wrong
8 choice, and he got in.

9 And, yes, he was involved in it. He posted up. He went
10 to meetings. But that was his family because he didn't really
11 have a family growing up.

12 But despite that, despite that, he met Jade, and turned
13 his life around. Began going to school, Ivy Tech, with hopes
14 of being an electrical engineer. Maintained employment. Has a
15 resume. He has a resume, Judge, that he put together. Prior
16 to being involved in this, prior to being arrested, he had a
17 resume to present to the future employers. He maintained his
18 employment. He obtained, right before the time of his
19 incarceration, new employment where he was going to be making
20 \$18 to \$19 an hour. He stopped going to school because he was
21 able to make that money and provide for his family.

22 Judge, there's very few instances in sentencing hearings
23 of where the Court can really see -- kind of look into the
24 future because -- I believe Your Honor is struck with the
25 decision of: Well, how is Mr. Delgado going to react to this?

1 How is he going to do in the future based on the sentence I
2 impose?

3 But in this rare situation, we have the future. The
4 future is from 2011 to 2017, January of 2017, when he was
5 arrested. We see what Mr. Delgado-Gonzalez was doing after he
6 matured, after he got out of that criminal lifestyle.

7 We have verified information that the Court can look at.
8 This is the man that sits in front of you. Not that young boy.
9 Not that troubled child, that troubled kid making those bad
10 decisions, the young man, the confident young man, the
11 determined young man, the young man that's got goals and
12 aspirations that has a job to support his family. That's the
13 man that's sitting in front of you.

14 Judge, I would respectfully pray that the Court sentence
15 the man that's sitting in front of you, not the troubled kid
16 and/or troubled young man as he was five years ago, six years
17 ago.

18 With that, Judge, as indicated in the sentencing
19 memorandum, we respectfully request Your Honor to sentence
20 Mr. Delgado to 36 months in the Bureau of Prisons with a
21 supervised release of two years.

22 We believe that that is understanding the severe nature of
23 being a Latin King. We do believe that that is a fair sentence
24 in this matter. That is a departure in the sentencing
25 guidelines predominantly for the age consideration that is

1 called for in the sentencing guidelines.

2 Thank you, Your Honor.

3 THE COURT: All right. Thank you, Mr. Brown.

4 All right. Mr. Delgado, do you wish to make a statement
5 in your own behalf or present any other information to me in
6 mitigation of punishment? Anything that you would like to say,
7 sir?

8 THE DEFENDANT: I wrote a small letter.

9 THE COURT: Sure.

10 THE DEFENDANT: Should I stand up?

11 THE COURT: You can remain seated. That's okay.

12 THE DEFENDANT: Okay. I'm a little nervous.

13 Your Honor, I'm thoroughly ashamed and embarrassed to be
14 standing before this Court today. I offer no excuses for the
15 choices I made, which I have made, which bring me here.

16 I pray that at this time which I have been granted to
17 address Your Honor in this Court it will become evident that,
18 first of all, I've admitted to the part that I played in these
19 matters.

20 Secondly, I am sincerely sorry for any actions.

21 Most importantly, I hope that, Your Honor, you will find I
22 possess the ability and desire to be a positive, law abiding,
23 contributing member of society.

24 My father passed away from cancer when I was 11 years old.
25 I was hurt, angry, confused, without him, without his guidance.

1 I was lost in the world for a while.

2 At 17, I joined the gang for the sense of family that I
3 thought I had -- that I thought I lost when the cancer tore my
4 family apart. By the age of 20, I realized the error of my
5 ways. I no longer was disillusioned by the gang life, and I
6 began to distance myself from it. More than that, I realized
7 the person I had become was not the man that my father raised
8 me to be. In fact, my life and my choices have become
9 disrespectful to his memory.

10 I must just stress to Your Honor and the Court that in
11 this time I was active with the gang and any subsequent time
12 that my previous affiliation seemed to force me on the
13 periphery of the gang life.

14 I never participated in any act of violence against
15 anyone, not that this fact diminished my capability for the
16 poor choices I did make. I am not a violent person, though.

17 I was getting my life on track. I maintained gainful
18 employment, mostly as a machine operator. I have started
19 attending Ivy Tech college in attempt to further my education
20 and create better opportunities for myself.

21 I was respected and trusted by my neighbors, paying my
22 taxes, and working hard to become a man I know my father would
23 have respected and been proud of.

24 I stand before you today, sir, hoping that you see my
25 sincerity and that you will find that I deserve a chance to be

1 the upstanding man. I just want an opportunity to do right, to
2 show Your Honor, my family, and especially my father-- may he
3 rest in peace --that I am capable of making choices and taking
4 actions that are consistent with being a real man and standing
5 free.

6 **THE COURT:** Thank you, Mr. Delgado.

7 Mr. Lanter, does the government have any comments or
8 recommendations as to the sentence I should impose?

9 **MR. LANTER:** Yes, your Honor.

10 From 2005 approximately to 2010, Mr. Delgado was a member
11 of the Latin Kings. While he was not the highest ranking
12 member, he was definitely a member and one of the type of
13 members that the Latin Kings rely on and are needed in order to
14 keep doing what they do in the community.

15 You all can't be a leader, and you all don't necessarily
16 have to be shooting up the neighborhood every day. But
17 Mr. Delgado was one of the supports for the Latin Kings and
18 enabled them to do what they do.

19 He's admitted that relevant conduct during his time was
20 between three-and-a-half and five kilograms of cocaine.

21 He's admitted that he posted up and patrolled
22 neighborhoods, being the lookout for the Latin Kings operation.

23 He also admitted that he possessed firearms in connection
24 with his activities with the Latin Kings.

25 He also admitted he was involved in a shootout in 2010,

1 where he shot at an Imperial Gangster. He was also shot
2 himself in that scenario.

3 And he's also admitted that, in 2009, he was present with
4 a number of other Latin Kings when Julian Rebeles got into a
5 shootout with the Spanish Gangster Disciples.

6 I understand that recently there's been a fair amount of
7 evidence that he has more or less cleaned up his act. At the
8 same time, and as the Court knows, this entire investigation
9 came to light a couple years ago with the murder of Martin
10 Hurtado, Sr., and Mr. Delgado's involvement in the gang during
11 2005 to 2010 was uncovered at that point in time.

12 It's the Government's position that he needs to be held
13 accountable for that past.

14 Now, it's possible for people to change, and the Court is,
15 I'm sure, going to take that into account; but the government's
16 position is that a sentence of three years is just not
17 sufficient to deter others from engaging in multi-kilogram of
18 cocaine gang conspiracies or possessing firearms or posting up
19 and patrolling in the neighborhood as one of the people that
20 supports the Latin Kings. Again, it's because of people like
21 him that the higher up people are able to do what they do.

22 So it's the government's position that a sentence closer
23 to the 87 months imprisonment is more appropriate than a
24 sentence of three years in this case.

25 THE COURT: All right.

1 Mr. Brown, will you answer me a question, because I'm not
2 sure I understand. What's the significance of Defendant's
3 Exhibit A?

4 **MR. BROWN:** Judge, Defendant's Exhibit A was issued
5 in --

6 **THE COURT:** In 2016.

7 **MR. BROWN:** August 3rd, 2016. Judge, it just goes to
8 show, again, that he was living a law abiding life. The
9 ability, quite frankly, Judge, to be able to get a lifetime
10 carry permit with, I contend, the strenuous background check,
11 to be able to get that permit I think just goes to show again
12 the lifestyle he was living, the man he has become and on the
13 right path.

14 **THE COURT:** Is the State Police like on your task
15 force or anything, been involved in these investigations?

16 **MR. LANTER:** The State Police has minimally in this
17 investigation. Your Honor, I, quite honestly, do not have the
18 answers that I suspect the Court wants to ask about how a
19 person gets a lifetime firearms permit, how a person gets a gun
20 permit, things like that. We do have --

21 **THE COURT:** When was he indicted in this case?

22 **MR. LANTER:** He was indicted in January of this year.

23 **THE COURT:** So he was the more recent.

24 **MR. LANTER:** Correct.

25 **THE COURT:** So we know it wasn't issued after the

1 Indictment at least.

2 MR. LANTER: Correct, Your Honor. Yes. That did not
3 happen in this case.

4 THE COURT: Yeah. Okay.

5 MR. LANTER: And I think his involvement -- When was
6 this issued, sometime in --

7 THE COURT: It was issued in August of 2016. I was
8 wondering if it was issued -- I don't know when he was indicted
9 out of this wave of indictments.

10 MR. LANTER: He was indicted in January of 2017, and
11 I think it's fair to say that the people that were telling us
12 about his involvement, that information was not being shared
13 with the State Police at that time.

14 THE COURT: Sure. Okay.

15 Anything else you want to say about that, Mr. Brown?

16 MR. BROWN: No, Your Honor. Thank you.

17 THE COURT: All right. The Supreme Court has
18 modified the Federal Sentencing Act and made the sentencing
19 guidelines advisory. It used to be, Mr. Delgado, that the
20 sentencing guidelines that we talked a little bit about, where
21 in this case they suggest a sentence of between 87 months and
22 151 months, those guidelines used to be mandatory. Judges like
23 myself had to follow them under almost all circumstances; but a
24 number of years ago, that paradigm was kind of set aside, and
25 the guidelines have been demoted essentially; and they're there

1 as a source of advice to Federal Judges, sort of a starting
2 point in trying to arrive at a reasonable sentence.

3 So the first place I have to look is what do the
4 guidelines suggest by way of a reasonable sentence. In this
5 case, you've heard what they suggest.

6 But in addition to the sentencing guidelines, I now have
7 to look at a whole range of other factors in trying to arrive
8 at my sentence; and I can't do that in a way that I pay or put
9 a thumb on the scale in favor of the guidelines. The
10 guidelines are just one other factor that I have to take into
11 account along with a whole range of other factors.

12 So in addition to the guidelines, I have to take into
13 account the nature and circumstances of the offense; you know,
14 what did you do that brought you here.

15 I also have to look at your personal history and
16 characteristics; in other words, who you are as a person, both
17 your criminal history, plus your personal history that I've
18 heard about. I have to take that into consideration.

19 I have to try to impose a sentence that reflects the
20 seriousness of the offense, promotes respect for the law,
21 provides just punishment for the offense. I have to be
22 concerned with deterring criminal activity, both general
23 deterrence and specific deterrence.

24 So what that means is: Specific deterrence is imposing a
25 sentence that is going to prevent you from committing

1 additional crimes. General deterrence is the idea that you're
2 going to announce a sentence that is going to be heard by the
3 community so that the other would-be gangbangers or other
4 people who are interested in committing criminal activity will
5 understand that, hey, there's a real consequence to engaging in
6 criminal activity. So that's a factor I have to take into
7 account, trying to generally deter criminal activity.

8 Ultimately, I have to try to arrive at a sentence that
9 avoids unwarranted disparity among similarly-situated
10 defendants; and at the end of the day, the goal is to arrive at
11 a sentence that is sufficient but not greater than necessary to
12 achieve all of these goals of sentencing.

13 This is a tough case. It's an odd case because it's sort
14 of the tail of two people. You know, I have to set aside
15 anything I'm reading in these addenda, frankly, about what they
16 claim you did after 2010 because there's no evidence of it in
17 the presentence report. So I'm just not going to speak to it.

18 If the government had presented me evidence about other
19 shootings or things that you did in 2014 or '15, I might have a
20 different view of this case. But based on the record I have
21 before me, I have somebody who was engaged in substantial gang
22 activity for a number of years up until around 2010, and then
23 slowly kind of got away from that culture.

24 So there's a lot of things that sort of tug in both
25 directions in this case.

1 Let's talk about the offense itself.

2 This is a serious offense. These gangs are a plague.
3 They're a plague on these communities; East Chicago, Gary,
4 Hammond, Merrillville. They're a plague. Young kids shooting
5 at each other and out on the street, it's ridiculous. I take
6 it very seriously. I have had dozens and dozens of these
7 cases; and each one is more mystifying than the next, people
8 shooting at each other because they had a hat on the wrong way
9 or they threw up a gang sign. It's ridiculous.

10 So I view this as a very serious offense, your involvement
11 with this group of people.

12 This gang has engaged in wide-scale violence, wide-scale
13 drug dealing. I understand that you weren't particularly
14 involved in the violence, but you've admitted to being involved
15 in a lot of narcotics dealing. I view that as serious.

16 You don't walk into this court with a clean slate, either.
17 You've got some criminal history. It's somewhat modest.
18 You've got a prior handgun no permit conviction. You had a
19 chance in that case. They essentially gave you probation. You
20 had some -- I think a suspended sentence. But according to the
21 presentence report, your probation was revoked four times.
22 Four times. So something was not sort of resonating with you
23 during that, sort of, criminal conviction over in Lake County.

24 You have a couple other modest, or minor, offenses. So I
25 have to take that into consideration. This is all reflected in

1 paragraph 36 of the presentence report, to which you haven't
2 objected.

3 So those are all things that I think tug in favor of a
4 more, you know, significant sentence. These are important
5 factors.

6 There's a lot of things that tug in the other direction,
7 as well.

8 First of all, you strike me as a really smart guy. Your
9 allocution here is one of the best ones I've seen in a long
10 time. You're a good writer. You're articulate. You're
11 likeable. You seem very smart. So, you know, I think the
12 future seems bright for you, candidly.

13 You had a very difficult, rough upbringing, and I
14 appreciate that. That is very difficult. I don't think it's
15 an excuse, frankly; but I do think it puts into some context
16 how it is that you arrive here today.

17 You've got to stop smoking pot, okay?

18 **THE DEFENDANT:** Yes, sir.

19 **THE COURT:** These people get up every day and just
20 start smoking weed every single day of their life. It's just
21 ridiculous. Okay?

22 **THE DEFENDANT:** Yes.

23 **THE COURT:** It's not productive. But, you know,
24 you're a serial drug user, according to the presentence report.
25 So that's got to stop.

1 I don't mean this as a criticism of the U.S. Attorney at
2 all. I have incredible respect for the U.S. Attorney and the
3 work they've done in bringing these gangs to justice. But on a
4 case like this, where somebody who has essentially left the
5 gang and now it's seven years later and they're indicted for
6 actions that they did when they were 18, 19 years old and
7 they're now 25 or 26, I think that's a factor I have to take
8 into account when I decide what is a fair and reasonable
9 sentence; you know, what has happened in that interim and who
10 is the person in front of me versus who that person was, as
11 your lawyer has argued to me, who that person was at the time
12 of the offense.

13 So what I have here is a defendant who has an excellent
14 work history, really from the time that he disassociated
15 himself with the gang, has been employed for six or seven
16 straight years at a variety of jobs, I think doing his best to
17 support himself under difficult circumstances. So I think
18 that's very much to his credit, and it bodes very well or
19 portends good things for him going forward. So I've taken that
20 into consideration.

21 I've heard from two witnesses today, very credible
22 witnesses, who I think suggest that the defendant should
23 receive a less serious sentence. He's not a defendant who --
24 often in these cases I'll get defendants who are 25 years old
25 who have four kids, and they're not taking care of any of them.

1 For better or worse, I think the better, the defendant in this
2 case doesn't have any children so he's not responsible for
3 anybody else other than himself, and I think that's going to be
4 helpful to him as he navigates this.

5 So all of that -- I've taken all of those things into
6 consideration, and I've arrived at the following sentence that
7 I intend to give.

8 I'll give counsel one final chance to make any final
9 objections, but I did want to ask one question, Mr. Brown.
10 After the defendant is released from the custody of the Bureau
11 of Prisons, it is my intention to place him on two years of
12 supervised release. There's a number of terms of supervision
13 that are set out in the presentence report. Did you have a
14 chance to review those terms of supervision with your client?

15 **MR. BROWN:** I have, Your Honor.

16 **THE COURT:** Do you have any objection to the
17 following procedure: What I intend to do is read into the
18 record the actual condition of supervision, but I would like to
19 just incorporate by reference what is in the presentence report
20 into my comments here in open court as to the reason I'm giving
21 each of those conditions. Do you have any objection to that
22 procedure?

23 **MR. BROWN:** No, Your Honor.

24 **THE COURT:** Okay. So let me formally state the
25 sentence: It is the judgment of the Court, pursuant to

1 Title 18, United States Code, Section 3551 and 3553, it's the
2 judgment of the Court that the defendant is hereby committed to
3 the custody of the Bureau of Prisons for a term of 54 months.
4 The defendant will then be placed on two years of supervised
5 release.

6 Within 72 hours of the Judgment being entered in this case
7 or his release from the custody of the Bureau of Prisons, he
8 shall report in person to the U.S. Probation Office for this
9 District between the hours of 8:00 a.m. and 4:30 p.m.

10 While he's on supervision, he shall comply with the
11 following conditions. There are four mandatory conditions.
12 One, he shall not commit another federal, state, or local
13 crime; second, he shall not unlawfully use, possess, or
14 distribute a controlled substance; third, the Defendant shall
15 submit to one drug test within 15 days of release from
16 imprisonment and at least two periodic tests thereafter for use
17 of a controlled substance; and, four, the Defendant shall
18 cooperate in the collection of DNA as directed by the probation
19 office.

20 There's a number of discretionary conditions; and, again,
21 I'll state for the record what the condition is, but the reason
22 I'm giving each of these conditions is fully delineated in the
23 presentence report, and so I incorporate that reasoning into my
24 comments here today.

25 So, first, the defendant shall not knowingly leave the

1 Judicial District without the permission of the Court or
2 probation office. The probation office will provide a map or
3 verbally describe the boundaries of the Judicial District at
4 the start of supervision. Second, the defendant shall report
5 to the probation officer in the manner and as frequently as
6 reasonably directed by the Court or probation officer during
7 normal business hours. Three, defendant shall not answer
8 falsely any inquiries by the probation office, but the
9 defendant may refuse to answer any question if he believes that
10 a truthful answer may incriminate him.

11 Four, the defendant shall follow the instructions of the
12 probation office as they relate to the conditions as imposed by
13 the Court. The defendant may petition the Court to seek relief
14 or clarification regarding a condition if he believes it is
15 unreasonable.

16 Five, the defendant shall make reasonable efforts to
17 obtain and maintain employment at a lawful occupation unless
18 he's excused by the probation office for schooling, training,
19 or other acceptable reasons such as childcare, elder care,
20 disability, age, or serious health condition.

21 Six, the defendant shall notify the probation officer at
22 least ten days prior to any change in residence or any time the
23 defendant leaves a job or accepts a new job. In the event the
24 defendant is involuntarily terminated from employment or
25 evicted from a residence, the offender must notify the

1 probation office within 48 hours.

2 Seven, the defendant shall not knowingly and intentionally
3 be in the presence of anyone who is illegally selling, using,
4 or distributing a controlled substance; and if that activity
5 commences when he is present, the defendant must immediately
6 leave the location.

7 Eight, the defendant shall not meet, communicate, or
8 otherwise interact with a person who he knows to be engaged or
9 is planning to be engaged in criminal activity.

10 Nine, the defendant shall permit a probation officer to
11 visit him at any time at home or any other reasonable location
12 between the hours of 8:00 a.m. and 10:00 p.m. and shall permit
13 confiscation of any contraband that's observed in plain view by
14 the probation office.

15 Ten, the defendant shall notify the probation officer
16 within 72 hours of being arrested or questioned by a law
17 enforcement officer.

18 Eleven, the defendant shall not enter into any agreement
19 to act as an informant for a law enforcement agency without the
20 permission of the Court.

21 Twelve, the defendant shall refrain from possessing a
22 firearm, destructive device, or other dangerous weapon.

23 Thirteen, the defendant shall participate in a program
24 approved by the probation office for substance abuse which may
25 include testing for the detection of alcohol, controlled

1 substances, or illegal mood-altering substances if it's
2 necessary after he's evaluated at the time of his release from
3 the Bureau of Prisons, and the defendant shall pay for the
4 costs of participation in the program, but not to exceed his
5 ability to pay for it, and a failure to pay due to an inability
6 to pay can never be grounds for revocation.

7 He's ordered to pay a special assessment of \$100. That,
8 of course, is mandatory, but I'm going to impose no fine given
9 the defendant's lack of assets makes it unlikely he will be
10 able to pay a fine, so I'm going to waive the fine in this
11 case.

12 The sentence I've just given is below the advisory
13 guidelines. I've given a sentence substantially below what the
14 guidelines suggest for the all of the reasons that I've
15 delineated on the record.

16 Counsel, do either of you know of any reasons why the
17 sentence should not be imposed as stated? Mr. Brown?

18 **MR. BROWN:** No, Your Honor.

19 **THE COURT:** Mr. Lanter?

20 **MR. LANTER:** No, Your Honor.

21 **THE COURT:** Have I taken all of your arguments,
22 whether it be in mitigation or aggravation, into account?
23 Mr. Brown?

24 **MR. BROWN:** You have, Your Honor.

25 **THE COURT:** Mr. Lanter?

1 MR. LANTER: Yes, Your Honor.

2 THE COURT: Does either side need any further
3 elaboration on the sentence I've announced?

4 MR. BROWN: No, Judge.

5 MR. LANTER: No, Your Honor.

6 THE COURT: So I do order the sentence imposed as
7 stated.

8 All right. Mr. Delgado, you've heard the judgment of the
9 Court imposing sentence upon you.

10 THE DEFENDANT: Yes.

11 THE COURT: Pursuant to Rule 32(j) of the Federal
12 Rules of Criminal Procedure, I advise you that you can appeal
13 your conviction if you think your guilty plea was somehow
14 unlawful or involuntary or if there was some other defect in
15 the proceeding not waived by your guilty plea. You also
16 ordinarily would have a right to appeal your sentence under
17 certain circumstances if you think it was contrary to law.

18 There was an appeal waiver here; correct?

19 MR. LANTER: Correct.

20 THE COURT: Now, there are cases in which defendants
21 waive their right to appeal as part of a plea agreement, and
22 you've entered into a plea agreement where you waived your
23 right to appeal. Those waivers are generally enforceable; but
24 if you think for whatever reason the waiver in this case is not
25 enforceable, you have to present that theory to the Court of

1 Appeals by filing a notice of appeal within 14 days of the
2 judgment being entered in your case. If you want to file an
3 appeal but you're unable to pay for the costs of an appeal, you
4 may apply for leave to appeal in forma pauperis. That means
5 you can pursue an appeal at no cost to you.

6 Mr. Brown, I just remind you of your duties to perfect the
7 appeal should your client wish you to do so.

8 **MR. BROWN:** Yes, Your Honor.

9 **THE COURT:** I'll order the defendant serve his
10 sentence as near as possible to Northwest Indiana. I'll also
11 recommend that he be placed in the Residential Drug Alcohol
12 Program, which will be beneficial to the defendant. It can
13 also help him take time off his sentence if he's accepted into
14 the program and successfully completes it.

15 Anything else then from you, Mr. Brown?

16 **MR. BROWN:** No, Your Honor.

17 **THE COURT:** Mr. Lanter, how about you?

18 **MR. LANTER:** No, Your Honor.

19 **THE COURT:** All right. Mr. Brown, you were appointed
20 in this case; is that correct?

21 **MR. BROWN:** Yes, Judge.

22 **THE COURT:** Listen. I want to thank you for your
23 service. I think you did an excellent job for your client, and
24 the Court appreciates your efforts. So thank you.

25 **MR. BROWN:** Thank you, Your Honor. I appreciate it.

1 THE COURT: Mr. Delgado, good luck to you, sir.

2 THE DEFENDANT: Thank you, Your Honor.

3 (The proceedings were adjourned at 11:10 p.m.)

4 * * *

5 (End of requested transcript.)

CERTIFICATE OF REPORTER

I, Angela Phipps, a Registered Merit Reporter and Certified Realtime Reporter, certify that the foregoing is a true, complete, and accurate transcript of the proceedings ordered to be transcribed in the above-entitled case before the Honorable Philip P. Simon, in Hammond, Indiana.

Date: April 9, 2018 S/Angela Phipps
S/Angela Phipps
Court Reporter

Angela Phipps, RMR, CRR, CSR, CCP
(219) 852-3616 - angel_a_phipps@iind.uscourts.gov

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